

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

JUN 19 2008

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

HUMBERTO SUAREZ,

Plaintiff - Appellant,

v.

SUPERIOR COURT OF CALIFORNIA,  
County of Los Angeles Metropolitan  
Courthouse, a separate branch of  
government,

Defendant - Appellee.

No. 07-55234

D.C. No. CV-06-03598-SVW

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Central District of California  
Stephen V. Wilson, District Judge, Presiding

Submitted June 9, 2008<sup>\*\*</sup>  
Pasadena, California

Before: TROTT, THOMAS, and FISHER, Circuit Judges.

Humberto Suarez, a deaf man, appeals the district court's grant of summary judgment to Defendant Superior Court of California on Suarez's claims under the

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12132, et seq. and the Rehabilitation Act, 29 U.S.C. § 794. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

We review de novo a district court’s grant of summary judgment. Ferguson v. City of Phoenix, 157 F.3d 668, 673 (9th Cir.1998). “To recover monetary damages under Title II of the ADA or the Rehabilitation Act, a plaintiff must prove intentional discrimination on the part of the defendant.” Duvall v. County of Kitsap, 260 F.3d 1124, 1138 (9th Cir. 2001). In order to show intentional discrimination in the Ninth Circuit, the plaintiff must show that the defendant acted with “deliberate indifference.” Id. at 1138-39. “Deliberate indifference requires both knowledge that a harm to a federally protected right is substantially likely, and a failure to act upon that . . . likelihood.” Id. at 1139.

In the case at bar, Plaintiff appeared in court in the late afternoon of August 9, 2005, and his attorney requested an American Sign Language interpreter. Defendant continued the case to the next morning and ordered an interpreter to appear. Ordering an interpreter to appear the next morning does not amount to deliberate indifference. See id. (“[I]n order to meet the second element of the deliberate indifference test, a failure to act must be a result of conduct that is more than negligent, and involves an element of deliberateness.”). Furthermore, as

ordered by Defendant, the interpreter appeared the next two mornings, but Plaintiff was unable to attend.

On August 15, Plaintiff appeared in court, but there was no interpreter present. There is no evidence that Defendant deliberately failed to order an interpreter to appear on August 15. See id. (explaining that “bureaucratic slippage” or negligence does not amount to deliberate indifference). Furthermore, the hearing on August 15 was continued to August 16 after Plaintiff’s attorney informed the court that an interpreter was needed and none were available until August 16.

**AFFIRMED.**